

Docket No. 9222.17800-DIV 2**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Shadduck
Serial No.: Unknown
Filed: 17 February 2004
For: Surgical Instruments and Techniques for Treating Gastro-Esophageal Reflux Disease

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT WITHIN
THREE MONTHS OF FILING OR BEFORE MAILING OF FIRST OFFICE ACTION
(37 CFR 1.97(b))**

NOTE: "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in S 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

NOTE: The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to S 1.71 and at least one claim pursuant to S 1.75, and (2) any drawing required by S 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by S 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. S 371(c) within the periods set forth in S 1.494 or S 1.495. 35 U.S.C. S 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

**IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION
DISCLOSURE STATEMENT**

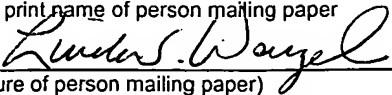
The information disclosure statement submitted herewith is being filed **WITHIN THREE MONTHS OF THE FILING DATE OF THE APPLICATION OR DATE OF ENTRY INTO THE NATIONAL STAGE OF AN INTERNATIONAL APPLICATION OR BEFORE THE MAILING DATE OF A FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURS LAST.** 37 CFR 1.97(b).

NOTE "NO CERTIFICATION OR FEE IS DUE WHEN THE FILING IS MADE WITHIN THE ABOVE TIME PERIOD. IT IS ADVISABLE TO ENSURE THAT NO OFFICE ACTION HAS BEEN MAILED IF THE DISCLOSURE STATEMENT IS DELAYED UNTIL AFTER THREE MONTHS FROM FILING."

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATE OF MAILING (37 CFR 1.8(a)) or (37 CFR 1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below as Express Mail Label No. EV 318693005 in an envelope addressed as follows: Mail Stop Patent Application, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Linda S. Wenzel
Type or print name of person mailing paper

(Signature of person mailing paper)

Date: 17 February 2004

- NOTE:** "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE:** "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- WARNING:** "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* prior art reference against the claims of the present application.

COPIES OF THE DOCUMENTS LISTED ON THE ATTACHED FORM PTO-1449 CAN BE FOUND IN THE FILE WRAPPER OF PARENT APPLICATION SERIAL NO. 09/222,501 FILED 29 DECEMBER 1998 AND ARE THEREFORE NOT INCLUDED WITH THIS SUBMISSION.

Should any fees be necessary in connection with this submission, please charge same to Account No. 06-2360.

Date 17 February 2004

Reg. No. 50,295

Patricia A. Limbach
Signature of Attorney of Record

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Patricia A. Limbach

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Milwaukee, Wisconsin 53226-0618

LIST OF PRIOR ART CITED BY APPLICANT <i>(Use several sheets if necessary)</i>	ATTY DOCKET NO. 9222.17800-DIV 2	SERIAL NO.
	APPLICANT Shadduck	
Customer No. 26308	FILING DATE 17 February 2004	GROUP

U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	6,411,852 B1	6/2002	Danek et al.			
	6,363,937 B1	4/2002	Hovda et al.			
	5,026,366	6/1991	Leckrone			
	4,295,464	10/1981	Shihata			
	6,036,687	3/2000	Laufer et al.			
	5,413,557	5/1995	Solar			
	5,776,176	7/1998	Ruddie			
	5,800,486	9/1998	Thome et al.			
	5,409,458	4/1995	Khairkhahan et al.			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No

OTHER PRIOR ART (*Including Author, Title, Date, Pertinent Pages, Etc.*)

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this with next communication to applicant.

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U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,891,134	4/1999	Goble et al.			
	6,015,407	1/2000	Rieb et al.			
	5,800,429	9/1998	Edwards			
	6,091,995	7/2000	Ingle et al.			
	5,718,666	2/1998	Alarcon			
	5,575,787	11/1996	Abela et al.			
	5,947,964	9/1999	Eggers et al.			
	5,249,585	10/1993	Turner et al.			
	6,033,397	3/2000	Laufer et al.			
	6,401,719B1	6/2002	Farley et al.			
	5,540,655	7/1996	Edwards et al.			

FOREIGN PATENT DOCUMENTS

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U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	DATE	Name	Class	Subclass	Filing Date (If Appropriate)
	6,056,744	5/2/2000	Edwards			
	6,009,877	1/4/2000	Edwards			
	6,066,755	12/28/1999	Edwards			
	6,044,846	4/4/2000	Edwards			
	6,092,528	7/25/2000	Edwards			
	5,897,553	4/1999	Mulier			
	5,395,363	3/1995	Billings et al.			
	5,658,278	8/1997	Imran et al.			
	5,891,027	4/1999	Tu et al.			
	5,785,705	7/1998	Baker			
	5,397,321	3/1995	Houser et al.			

FOREIGN PATENT DOCUMENTS

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Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	4,396,019	02 Aug 83	Perry, Jr.			
	5,103,804	14 Apr 92	Abela et al.			
	5,341,807	30 Aug 94	Nardela			
	5,425,364	20 Jun 95	Imran			
	5,443,470	22 Aug 95	Stern et al.			
	5,454,782	03 Oct 95	Perkins			
	5,575,788	19 Nov 96	Baker et al.			
	5,651,785	29 Jul 97	Abela et al.			
	5,681,280	28 Oct 97	Rusk et al.			
	5,688,267	18 Nov 97	Panescu et al.			
	5,716,340	10 Feb 98	Schweich, Jr. et al.			
	5,657,755	19 Aug 97	Desai			
	5,957,920	28 Sep 99	Baker			
	6,066,139	23 May 00	Ryan et al.			
	6,073,052	06 Jun 00	Zelickson et al.			
	6,254,598	03 Jul 01	Edwards et al.			
	6,405,732	18 Jun 02	Edwards et al.			

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